Application No.: 09/270141

Docket No.: SMQ-011

REMARKS

Upon entry of this paper, claims 1, 9, 10, 14, 17, 20, 38 and 43 have been amended. Claims 3-4, 18, and 45-52 have been cancelled. Claims 53-58 have been added. Claims 30-34 were previously withdrawn in response to a Restriction Requirement. Applicant reserves the right to pursue the same or similar claims to the cancelled or withdrawn claims in this or another application at a later time. Claims 1-2, 5, 8-12, 14-17, 19-20, 22-23, 38-44 and 53-58 are now pending, of which claims 1, 9, 14, 17, 20, 38, 43 and 55 are independent.

Applicant's Third Supplemental IDS

Applicant is separately submitting a Third Supplemental IDS today via first class mail. A courtesy copy of the 1449 is attached.

Rejections Pursuant to 35 U.S.C. §112 second paragraph

Applicant has amended claims 1, 14, and 17 to clarify that the term programmatically refers to performing the referenced operation without user participation.

Rejections Pursuant to 35 U.S.C. §103(a)

The Examiner rejected claims 1-2, 5, 8-12, 14-17, 19-20, 22-23, 38-44 pursuant to 35 U.S.C. §103(a) as being unpatentable over the commercial product Netscape version 2 (hereafter "Netscape") in view of Dillon et al(United States Patent No. 6, 546, 488, hereafter "Dillon"). In light of the amendments above and for the reasons set forth below, Applicant respectfully traverses these rejections.

Summary of Claimed Invention

The present invention addresses the limitations of conventional systems by providing a lightweight global distribution mechanism for distributing packages. The distribution mechanism that does not rely upon registration, and thus, does not incur the overhead associated with maintaining a registry. In addition, the present invention allows clients to anonymously download or install the packages. A publishing master on a remote system on a network is provided with an index of available packages for loading. The index contains information about multiple packages. The packages may be a computer program or a patch for a computer program. The index is accessed on behalf of the client system to identify at least one selected

10

Application No.: 09/270141   Docket No.: SMQ-011

package for installation at the client system. The list of available packages from the publishing master may be compared against a generated list produced by the client system that indicates which packages are already installed on the client system. The client may also maintain a subscription list of the packages to which the client subscribes. The subscription list may be utilized in the decision process determining which package to download. The selected package is then downloaded and loaded/installed on the client system after being transferred in response to a request from the client system.

<u>Summary of Claim Amendments</u>

Applicant has amended all of the independent claims to indicate that the package is a computer program or a patch for a computer program. Applicant has also amended claims 1, 14 and 17 to indicate that the publishing master index/data regarding available packages are programmatically indexed by the client system without user participation. Applicant has also amended claims 1, 10, 14, 17, 20, 38 and 43 to indicate that the package is transferred to the client system in response to a request from the client system. Applicant has also added new dependent claims 53 and 54 (dependent upon claim 1) to indicate that the selection of which package to load may involve a comparison between the version or release date of a client installed package and a package available for loading, or may involve the analysis of an identifier indicating whether the package is a required or optional package. Applicant has also added medium claims 55-58 corresponding to independent claim 1 and some of its dependents.

<u>Summary of Netscape</u>

The Examiner cited the Netscape browser manual as teaching the use of news groups, specifically, the use of tables providing potential newsgroup selections to a user. The Examiner also cited Netscape to show the loading of the selected newsgroup at the client system. The Examiner indicated Netscape did not specifically show the storing of subscription information on the client system.

<u>Summary of Dillon</u>

Dillon shows a method of broadcasting newsgroup information to multiple users using a news server. The News Server gathers newsgroup information from Internet newsgroups and multicasts it to multiple subscriber stations, in one embodiment using a satellite transmitter. The

11

Application No.: 09/270141   Docket No.: SMQ-011

subscriber stations include subscription information stored locally and filter the multicast information to extract the information belonging to the newsgroups to which the client system subscribes (see col. 4, lines 25-32).

Argument

The combination of Netscape and Dillon fails to disclose, teach or suggest all of the elements of Applicant's independent and dependent claims as amended. Dillon was cited by the Examiner as teaching the storing at the client of the subscription information that is being used in the package selection process. However, Dillon represents push technology whereas Applicant's claims read on pull technology. To clarify this point, Applicant has amended all of the independent claims to indicate that the package is loaded/installed after being transferred in response to a request from the client system. Dillon does not disclose teach, disclose or suggest this element. Rather, as noted above, Dillon filters a multicast stream to extract the information related to the newsgroups to which the client subscribes. By flooding the network with data, this process teaches away from Applicant's lightweight process which only transfers data in response to a request from the client system.

The combination of Netscape and Dillon also fails to disclose, teach or suggest the element of the publishing master/server maintaining an index of packages available for loading where the packages are computer programs or patches. Newsgroups are fundamentally related to the dissemination of news rather than the updating or installation of computer programs in a distributed system. The Examiner has failed to provide a specific citation to the portion of Netscape or Dillon that the Examiner contends shows the package being a computer program or patch. The Examiner's contention that the element claims data and has no patentable weight ignores the distinction between passive data such as a document and computer-executable instructions. The claim that the package contains a patch or computer program must be read in conjunction with the steps which require the identification of packages already installed on the client system. In such a case, the process of identifying a patch is different from identifying another type of data. Accordingly, since the combination of Netscape and Dillon fails to disclose all of the elements of the independent claims, Applicant requests the rejections directed to claims 1-2, 5, 8-12, 14-17, 19-20, 22-23, 38-44 be withdrawn and those claims, as well as new claims 53-58, be allowed.

12

Application No.: 09/270141   Docket No.: SMQ-011

Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 12-0080, under Order No. SMQ-011 from which the undersigned is authorized to draw.

Dated: April 5, 2004   Respectfully submitted,

                                            By John S. Curran
                                            John S. Curran
                                            Registration No.: 50,445
                                            LAHIVE & COCKFIELD, LLP
                                            28 State Street
                                            Boston, Massachusetts 02109
                                            (617) 227-7400
                                            (617) 742-4214 (Fax)
                                            Attorney/Agent For Applicant

13

Courtesy
Copy

PTO/SB/08a/b (08-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U S DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449A/B/PTO	Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT *(Use as many sheets as necessary)*	Application Number	09/270141-Conf. #2096
	Filing Date	March 16, 1999
	First Named Inventor	Gary D. FOSTER
	Art Unit	2124
	Examiner Name	T.D. Ingberg
Sheet 1 of 1	Attorney Docket Number	SMQ-011

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No.¹	Document Number Number-Kind Code² (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.¹	Foreign Patent Document Country Code³-Number⁴-Kind Code⁵ (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T⁶

*EXAMINER Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional) ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04 ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST 3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST 16 if possible ⁶ Applicant is to place a check mark here if English language Translation is attached

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T²
	B7	NETWORK WORKING GROUP, "RFC 977-Network News Transfer Protocol", (1986) http://www.faqs.org/rfcs/rfc977.html, retrieved 4/5/2004, 21 pages	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Applicant's unique citation designation number (optional) ²Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature		Date Considered	